

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Jason Stone, Jason for Parks  
Committee,

Complainant,  
vs.

Supporters of Carol Kummer,

Respondent.

NOTICE OF DETERMINATION OF  
PRIMA FACIE VIOLATION  
AND  
NOTICE OF AND ORDER FOR  
PROBABLE CAUSE HEARING

TO: Carol Kummer, Supporters for Carol Kummer for Park Board Committee,  
4941 37<sup>th</sup> Avenue South, Minneapolis, MN 55417; and Jason Stone, Jason for  
Parks Committee, 1708 57<sup>th</sup> Street E., Minneapolis, MN 55417.

On September 15, 2005, Jason Stone filed a Complaint with the Office of  
Administrative Hearings alleging the Respondent violated Minn. Stat. § 211B.02  
by placing the initials "DFL" on campaign literature and lawn signs to falsely imply  
that she was endorsed by the DFL party. After reviewing the Complaint and  
attached documents, the undersigned Administrative Law Judge has determined  
that the complaint sets forth a prima facie violation of § 211B.02.

**THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY  
GIVEN** that this matter is scheduled for a probable cause hearing to be held by  
telephone before the undersigned Administrative Law Judge at **9:30 a.m. on  
Monday, September 19, 2005**. The Administrative Law Judge will initiate the  
telephone conference. The probable cause hearing will be conducted pursuant  
to Minn. Stat. § 211B.34. Information about the probable cause proceedings and  
copies of state statutes may be found online at [www.oah.state.mn.us](http://www.oah.state.mn.us) and  
[www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

At the probable cause hearing all parties have the right to be represented  
by legal counsel, by themselves, or by a person of their choice if not otherwise  
prohibited as the unauthorized practice of law. In addition, the parties have the  
right to submit evidence, affidavits, documentation and argument for  
consideration by the Administrative Law Judge. Parties should provide to the  
Administrative Law Judge all evidence bearing on the case, with copies to the  
opposing party, before the telephone conference takes place. Documents may  
be faxed to Judge Sheehy at 612-349-2665.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minn. Stat. § 211B.34, subd. 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: September 16, 2005

/s/ Kathleen D. Sheehy  
KATHLEEN D. SHEEHY  
Administrative Law Judge

## **MEMORANDUM**

Jason Stone and Carol Kummer are candidates for the Minneapolis Parks and Recreation Board's District 5 seat. Stone has filed this complaint concerning Kummer's use of the initials "DFL" on campaign literature and lawn signs. Along with the complaint form, Stone submitted a piece of Kummer's campaign literature in which the initials "DFL" appear after her name. Stone alleges that the use of the initials "DFL" falsely implies that Kummer has the endorsement or support of the DFL party. According to Stone, there is no DFL-endorsed candidate in the Park District 5 race.

Minn. Stat. § 211B.02 provides as follows:

### **211B.02 False Claim of Support.**

A person or candidate, may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has

the support or endorsement of an individual without first getting written permission from the individual to do so.

In *Schmitt v. McLaughlin*,<sup>1</sup> the Minnesota Supreme Court held that a candidate's use of the initials "DFL" falsely implied that the candidate had the endorsement of the DFL party in violation of Minnesota election law. The Administrative Law Judge concludes that the complaint does allege a prima facie violation of Minn. Stat. § 211B.02. This matter will proceed to a probable cause hearing next week.

K.D.S.

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<sup>1</sup> 275 N.W.2d 587, 591 (Minn. 1979) (discussing Minn. Stat. § 210A.02, predecessor to Minn. Stat. § 211B.02).